

**U.S. District Court
Eastern District of Arkansas (Little Rock)
CIVIL DOCKET FOR CASE #: 4:17-cv-00400-JLH**

Kingsley Brothers LLC et al v. US Department of Agriculture
Assigned to: Judge J. Leon Holmes
Cause: 05:552 Freedom of Information Act

Date Filed: 06/19/2017
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

Kingsley Brothers LLC

represented by **Mark H. Allison**
Dover Dixon Horne PLLC
425 West Capitol Avenue
Suite 3700
Little Rock, AR 72201-3645
501-375-9151
Email: mallison@ddh-ar.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Thane Joal Lawhon
Dover Dixon Horne PLLC
425 West Capitol Avenue
Suite 3700
Little Rock, AR 72201-3645
501-375-9151
Email: tlawhon@ddh-ar.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Kiman Kingsley

represented by **Mark H. Allison**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Thane Joal Lawhon
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Dover Dixon Horne PLLC
their Attorneys

represented by **Mark H. Allison**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Thane Joal Lawhon
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

US Department of Agriculture
Agricultural Marketing Service

represented by **Stacey Elise McCord**
U. S. Attorney's Office
Eastern District of Arkansas
Post Office Box 1229

Little Rock, AR 72203-1229
 501-340-2630
 Email: stacey.mccord@usdoj.gov
 ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
06/19/2017	<u>1</u>	COMPLAINT FOR DECLARATORY JUDGMENT AND FOR INJUNCTIVE RELIEF against US Department of Agriculture filed by Dover Dixon Horne PLLC, Kingsley Brothers LLC, Kiman Kingsley. Summons issued and returned to counsel. (Fee of \$400 paid, Receipt #LIT062407.) (Attachments: # <u>1</u> Civil Cover Sheet) (ljb) (Entered: 06/19/2017)
07/21/2017	<u>2</u>	ANSWER to <u>1</u> Complaint, by US Department of Agriculture.(McCord, Stacey) (Entered: 07/21/2017)
07/26/2017	<u>3</u>	AFFIDAVIT of Service of Summons & Complaint , filed by Dover Dixon Horne PLLC, Kingsley Brothers LLC, Kiman Kingsley. All Defendants. (Attachments: # <u>1</u> Exhibit Letter & USPO Return Receipt)(Allison, Mark) (Entered: 07/26/2017)
07/26/2017	<u>4</u>	AFFIDAVIT of Service of Summons & Complaint , filed by Dover Dixon Horne PLLC, Kingsley Brothers LLC, Kiman Kingsley. All Defendants. (Attachments: # <u>1</u> Exhibit Letter & USPO Return Receipt)(Allison, Mark) (Entered: 07/26/2017)
07/27/2017	<u>5</u>	ORDER: The Court hereby schedules a Rule 16(b) Conference in this matter for 9:30 A.M. on Tuesday, 8/1/2017, in Courtroom #4-D, Richard Sheppard Arnold United States Courthouse, in Little Rock, Arkansas. Signed by Judge J. Leon Holmes on 7/27/2017. (ljb) (Entered: 07/27/2017)
08/01/2017	<u>6</u>	(This is a TEXT ENTRY ONLY. There is no pdf document associated with this entry.) Minute Entry for proceedings held before Judge J. Leon Holmes: RULE 16(B) SCHEDULING CONFERENCE held on Tuesday, 8/1/2017. Mark Allison, TJ Lawhon present for plaintiffs; AUSA Stacey McCord present for defendant. Parties to confer and present Court with proposed deadlines for motions and responses. (Court Reporter Genie Power) (cdw) (Entered: 08/01/2017)
10/25/2017	<u>7</u>	ORDER giving notice that this action will be dismissed without prejudice on 11/1/2017, unless something is filed before then to start this case moving toward a conclusion. Signed by Judge J. Leon Holmes on 10/25/2017. (ljb) (Entered: 10/25/2017)
10/26/2017	<u>8</u>	Joint MOTION for Extension of Time to File <i>Status Report</i> by All Plaintiffs (Allison, Mark) (Entered: 10/26/2017)
10/26/2017	<u>9</u>	ORDER granting the <u>8</u> joint motion to extend the time for submitting a status report. The parties must file a report on or before 12/1/2017, stating whether further action is needed in this case and, if so, proposing a scheduling order. Signed by Judge J. Leon Holmes on 10/26/2017. (ljb) (Entered: 10/26/2017)
12/01/2017	<u>10</u>	STATUS REPORT / <i>On Behalf of all Parties</i> by US Department of Agriculture. (McCord, Stacey) (Entered: 12/01/2017)
12/01/2017	<u>11</u>	ORDER directing the parties to file a proposed scheduling order on or before 12/15/2017. Signed by Judge J. Leon Holmes on 12/1/2017. (ljb) (Entered: 12/01/2017)
12/14/2017	<u>12</u>	NOTICE by US Department of Agriculture / <i>Proposed Scheduling Order By All Parties</i> (McCord, Stacey) (Entered: 12/14/2017)
01/05/2018	<u>13</u>	MOTION to Amend/Correct <i>Complaint</i> by All Plaintiffs (Attachments: # <u>1</u> Document Draft Amended Complaint, # <u>2</u> Exhibit Ex. 1-Notice of Proposed Revocation, # <u>3</u> Exhibit Ex. 2-Notice of Appeal, # <u>4</u> Exhibit Ex. 3-J. Ragonesi Letter, # <u>5</u> Exhibit Ex. 4-FOIA Letter to USDA, # <u>6</u> Exhibit Ex. 5-Final Response, # <u>7</u> Exhibit Ex. 6-USDA-AMS FOIA Appeal Letter, # <u>8</u> Exhibit Ex. 7-Ketter to Roger Simonds-lab testing, # <u>9</u> Exhibit Ex. 8-Acknowledgment of FOIA Request, # <u>10</u> Exhibit Ex. 9-March 2, 2017 Final Response, # <u>11</u> Exhibit Ex. 10-FOIA Appeal Letter (2017-AMS-01450-F), # <u>12</u> Exhibit Ex. 11-Letter-Response to AMS Supplemental

		Disclosure, # <u>13</u> Exhibit Ex. 12–Letter to Stacy McCord–Response to AMS Supplemental Disclosure, # <u>14</u> Exhibit Ex. 13–Response of McCord to DDH Response top AMS Supplemental Disclosure)(Allison, Mark) (Entered: 01/05/2018)
01/05/2018	<u>14</u>	ORDER granting <u>13</u> plaintiffs' motion for leave to file first amended and supplemental complaint. Plaintiffs must file the first amended and supplemental complaint within seven days from the entry of this Order. Signed by Judge J. Leon Holmes on 1/5/2018. (ljb) (Entered: 01/05/2018)
01/05/2018	<u>15</u>	AMENDED COMPLAINT against US Department of Agriculture filed by Dover Dixon Horne PLLC, Kingsley Brothers LLC, Kiman Kingsley (Attachments: # <u>1</u> Exhibit Ex. 1 – Notice of Proposed Revocation, # <u>2</u> Exhibit Ex. 2 – Kingsley Notice of Appeal, # <u>3</u> Exhibit Ex. 3 – J. Ragonesi Letter, # <u>4</u> Exhibit Ex. 4 – FOIA Letter to USDA, # <u>5</u> Exhibit Ex. 5 – Final Response (signed), # <u>6</u> Exhibit Ex. 6 – USDA–AMS FOIA Appeal Letter, # <u>7</u> Exhibit Ex. 7 – Letter to Roger Simonds–Lab Testing, # <u>8</u> Exhibit Ex. 8 – Acknowledgment of FOIA Request, # <u>9</u> Exhibit Ex. 9 – Final Response (March 2), # <u>10</u> Exhibit Ex. 10 – FOIA Appeal Letter (2017–AMS–01450–F), # <u>11</u> Exhibit Ex. 11 Letter–AMS Supplemental Disclosure, # <u>12</u> Exhibit Ex. 12 – Letter to Stacy McCord (Response to AMS Supplemental Disclosure), # <u>13</u> Exhibit Ex. 13 – McCord Reply to DDH Response to AMS Supplemental Disclosure)(Allison, Mark) (Docket text modified on 1/8/2018 to indicate the document is filed against Defendant.)(thd). (Entered: 01/05/2018)
01/08/2018		NOTICE OF DOCKET CORRECTION re: <u>15</u> Amended Complaint. CORRECTION: The docket text was modified to indicate the document is filed against Defendant. (thd) (Entered: 01/08/2018)
01/19/2018	<u>16</u>	ANSWER to <u>15</u> Amended Complaint,,,, <i>Answer to First Amended and Supplemental Complaint</i> by US Department of Agriculture.(McCord, Stacey) (Entered: 01/19/2018)
02/28/2018	<u>17</u>	NOTICE by US Department of Agriculture re <u>12</u> Notice (Other) <i>Parties' Proposed Amended Scheduling Order</i> (McCord, Stacey) (Entered: 02/28/2018)
03/26/2018	<u>18</u>	ORDER granting <u>12</u> request for entry of proposed amended scheduling order. Dispositive motions will be due by 3/28/2018; Responses to dispositive motions will be due by 5/2/2018; Replies to dispositive motions responses will be due my 5/30/2018. Signed by Judge J. Leon Holmes on 3/26/2018. (ljb) (Entered: 03/26/2018)
03/26/2018	<u>19</u>	MOTION for Extension of Time to File <i>Motion for Summary Judgment</i> by US Department of Agriculture (Attachments: # <u>1</u> Proposed Second Amended Scheduling Order)(McCord, Stacey) (Entered: 03/26/2018)
03/28/2018	<u>20</u>	ORDER granting <u>19</u> Defendant's motion for extension of time and the request for entry of proposed second amended scheduling order. Dispositive motions will be due by 4/11/2018; responses to dispositive motions will be due by 5/16/2018; and replies to dispositive motions responses will be due by 6/13/2018. Signed by Judge J. Leon Holmes on 3/28/2018. (ljb) (Entered: 03/28/2018)
04/11/2018	<u>21</u>	MOTION for Summary Judgment by US Department of Agriculture (McCord, Stacey) (Entered: 04/11/2018)
04/11/2018	<u>22</u>	BRIEF IN SUPPORT re <u>21</u> Motion for Summary Judgment filed by US Department of Agriculture. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit)(McCord, Stacey) (Entered: 04/11/2018)
04/11/2018	<u>23</u>	STATEMENT OF FACTS (Local Rule 56.1) re <u>22</u> Brief in Support filed by US Department of Agriculture. (McCord, Stacey) (Entered: 04/11/2018)
05/16/2018	<u>24</u>	RESPONSE in Opposition re <u>21</u> MOTION for Summary Judgment filed by Dover Dixon Horne PLLC, Kiman Kingsley, Kingsley Brothers LLC. (Attachments: # <u>1</u> Exhibit (A) April 20, 2018 AMS Decision, APL 17–012, # <u>2</u> Exhibit (B) October 25, 2017 Letter from Plaintiff's Counsel to Defendant's Counsel w/ selected enclosures, # <u>3</u> Exhibit (C) Answers to Plaintiff's First Interrogatories to Defendant Cynthia Kingsley, # <u>4</u> Exhibit (D) USDA Fiscal Year 2015 FOIA Report, # <u>5</u> Exhibit (E) USDA Fiscal Year 2016 FOIA Report, # <u>6</u> Exhibit (F) USDA Fiscal Year 2017 FOIA Report)(Allison, Mark) (Entered: 05/16/2018)

05/16/2018	<u>25</u>	BRIEF IN SUPPORT re <u>21</u> Motion for Summary Judgment, <u>24</u> Response in Opposition to Motion,, filed by All Plaintiffs. (Allison, Mark) (Entered: 05/16/2018)
05/16/2018	<u>26</u>	STATEMENT OF FACTS (Local Rule 56.1) re <u>23</u> Statement of Facts (Local Rule 56.1) <i>Plaintiff's Response to Defendant's Statement of Uncontested Facts & Plaintiff's Statement of Material Contested Facts</i> filed by All Plaintiffs. (Allison, Mark) (Entered: 05/16/2018)
06/13/2018	<u>27</u>	MOTION for Extension of Time to File Response/Reply as to <u>24</u> Response in Opposition to Motion,, by US Department of Agriculture (McCord, Stacey) (Entered: 06/13/2018)
06/15/2018	<u>28</u>	ORDER denying as premature <u>21</u> motion for summary judgment; and granting <u>27</u> motion for extension of time. The Court directs the parties to confer regarding a new scheduling order, and, if they are able to reach an agreement, to submit a new scheduling order as soon as they are able to do so in light of the ongoing production of documents. Signed by Judge J. Leon Holmes on 6/15/2018. (ljb) (Entered: 06/15/2018)
07/05/2018	<u>29</u>	STATUS REPORT by US Department of Agriculture. (McCord, Stacey) (Entered: 07/05/2018)
10/04/2018	<u>30</u>	Joint MOTION for Order <i>Approving the Parties' Proposed New Briefing Schedule</i> by All Defendants (McCord, Stacey) (Entered: 10/04/2018)
10/09/2018	<u>31</u>	ORDER granting <u>30</u> joint motion for new briefing schedule. The deadline for filing dispositive motions is 11/16/2018; the deadline for filing responses to dispositive motions is 12/21/2018; and the deadline for filing replies to the responses to dispositive motions is 1/18/2019. Signed by Judge J. Leon Holmes on 10/9/2018. (ljb) (Entered: 10/09/2018)
11/16/2018	<u>32</u>	MOTION for Summary Judgment by US Department of Agriculture (McCord, Stacey) (Entered: 11/16/2018)
11/16/2018	<u>33</u>	STATEMENT OF FACTS (Local Rule 56.1) re <u>32</u> Motion for Summary Judgment filed by US Department of Agriculture. (McCord, Stacey) (Entered: 11/16/2018)
11/16/2018	<u>34</u>	BRIEF IN SUPPORT re <u>32</u> Motion for Summary Judgment filed by US Department of Agriculture. (Attachments: # <u>1</u> Exhibit 1)(McCord, Stacey) (Entered: 11/16/2018)
12/21/2018	<u>35</u>	RESPONSE to Motion re <u>32</u> MOTION for Summary Judgment filed by Dover Dixon Horne PLLC, Kiman Kingsley, Kingsley Brothers LLC. (Attachments: # <u>1</u> Exhibit Defendant's Motion for Extensio of Time, filed June 13, 2018, # <u>2</u> Exhibit December 5, 2016 email from Jonathan Barber to Judith Ragonesi, # <u>3</u> Exhibit April 20, 2018 letter from NOP to Mark Allison, # <u>4</u> Exhibit Certificates of Organic Operation by Ecocert)(Allison, Mark) (Entered: 12/21/2018)
12/21/2018	<u>36</u>	RESPONSE re <u>33</u> Statement of Facts filed by All Plaintiffs. (Allison, Mark) (Docket text modified on 12/21/2018 to correct the description of the document filed) (jak) (Entered: 12/21/2018)
12/21/2018	<u>37</u>	BRIEF IN SUPPORT re <u>35</u> Response filed by All Plaintiffs. (Allison, Mark)(Docket text modified on 12/21/2018 to correct the linkage)(jak) (Entered: 12/21/2018)
12/21/2018		NOTICE OF DOCKET CORRECTION re <u>36</u> Statement of Facts and <u>37</u> Brief in Support. CORRECTION: The docket text for docket entry <u>36</u> was modified to correct the description of the document filed as "RESPONSE re <u>33</u> Statement of Facts" as marked on the document. The docket text for docket entry <u>37</u> was modified to correct the linkage to <u>35</u> Response. (jak) (Entered: 12/21/2018)
01/31/2019	<u>38</u>	MOTION to Extend Time by US Department of Agriculture (McCord, Stacey) (Entered: 01/31/2019)
02/04/2019	<u>39</u>	ORDER granting <u>38</u> defendant's motion for extension of time to file its reply to plaintiffs' response to motion for summary judgment. Defendant's reply must be filed on or before 3/5/2019. Signed by Judge J. Leon Holmes on 2/4/2019. (ljb) (Entered: 02/04/2019)
03/05/2019	<u>40</u>	REPLY to <u>35</u> Response to <u>32</u> MOTION for Summary Judgment filed by US Department of Agriculture. (Attachments: # <u>1</u> Exhibit)(McCord, Stacey) (Docket text

		modified on 3/7/2019 to correct the linkage) (jak) (Entered: 03/05/2019)
03/07/2019		NOTICE OF DOCKET CORRECTION re <u>40</u> Reply to Response to Motion. CORRECTION: The docket text was modified to correct the linkage to <u>35</u> Response and <u>32</u> Motion for Summary Judgment. (jak) (Entered: 03/07/2019)
03/20/2019	<u>41</u>	OPINION AND ORDER directing Agricultural Marketing Service to submit a more specific Vaughn index in accordance with the cases mentioned in this order, on or before 4/10/2019. The Court will address all mentioned issues at once when the record is complete. Signed by Judge J. Leon Holmes on 3/20/2019. (kdr) (Docket text modified on 3/21/2019 to correct the description of the document filed) (jak) (Entered: 03/20/2019)
03/21/2019		NOTICE OF DOCKET CORRECTION re <u>41</u> Order. CORRECTION: The docket text was modified to correct the description of the document filed as "OPINION AND ORDER" as marked on the document. (jak) (Entered: 03/21/2019)
04/09/2019	<u>42</u>	NOTICE by US Department of Agriculture <i>OF FILING OF REVISED VAUGHN INDEX</i> (Attachments: # <u>1</u> Exhibit 2)(McCord, Stacey) (Entered: 04/09/2019)
04/18/2019	<u>43</u>	MOTION for Leave to File <i>Response to Defendant's Revised Vaughn Index</i> by All Plaintiffs (Allison, Mark) (Entered: 04/18/2019)
04/19/2019	<u>44</u>	ORDER granting <u>43</u> plaintiffs' motion for leave to respond to defendant's revised Vaughn index. The plaintiffs' response must be filed on or before 4/26/2019. Signed by Judge J. Leon Holmes on 4/19/2019. (ljb) (Entered: 04/19/2019)
04/26/2019	<u>45</u>	RESPONSE re <u>42</u> Notice (Other) <i>to Defendant's Revised Second Vaughn Index</i> by Dover Dixon Horne PLLC, Kiman Kingsley, Kingsley Brothers LLC (Allison, Mark) (Entered: 04/26/2019)
05/31/2019	<u>46</u>	ORDER that the Court still needs more information. AMS may file this information on or before 6/14/2019. The plaintiffs may respond to whatever AMS files in response to this Order on or before 6/28/2019. Signed by Judge J. Leon Holmes on 5/31/2019. (ljb) (Entered: 05/31/2019)
06/13/2019	<u>47</u>	MOTION to Extend Time <i>To Respond To Court's Order</i> by US Department of Agriculture (McCord, Stacey) (Entered: 06/13/2019)
06/14/2019	<u>48</u>	ORDER granting <u>47</u> defendant's motion for extension of time to respond to Court's Order. The time for the defendant to respond is extended up to and including 6/26/2019. Plaintiffs' reply will be due by 7/10/2019. Signed by Judge J. Leon Holmes on 6/14/2019. (jbh) (Entered: 06/14/2019)
06/26/2019	<u>49</u>	RESPONSE re <u>46</u> Order, by US Department of Agriculture (Attachments: # <u>1</u> Exhibit 1)(McCord, Stacey) (Entered: 06/26/2019)
07/03/2019	<u>50</u>	MOTION for Extension of Time to File Response/Reply as to <u>48</u> Order on Motion to Extend Time, by All Plaintiffs (Allison, Mark) (Entered: 07/03/2019)
07/05/2019	<u>51</u>	ORDER granting <u>50</u> motion for extension of time, up to and including 7/17/2019, to reply to defendant's response to the Court's 5/31/2019 Order. Signed by Judge J. Leon Holmes on 7/5/2019. (ljb) (Entered: 07/05/2019)
07/15/2019	<u>52</u>	MOTION for Extension of Time to File Response/Reply as to <u>49</u> Response (Non Motion) by All Plaintiffs (Allison, Mark) (Entered: 07/15/2019)